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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 November 1997, at 10 a.m.

Chairperson: Mr. RATTRAY

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Iraq (continued) (E/1994/104/Add.9; E/C.12/1994/6, E/C.12/Q/IRAQ.1; HR/CESCR/NONE/1997/3)

1. At the invitation of the Chairperson, Mr. Dhary and Mr. Salman (Iraq) took places at the Committee table.

Article 9. Right to social security (continued)

2. Mr. DHARY (Iraq), responding to questions, said that older persons enjoyed the rights granted to all other citizens and benefited from special rights as well. Those who retired at the legal age received a full pension, as well as allowances for the family and other dependants. Workers also received retirement pensions under the Pension and Social Security Act. Professionals, such as lawyers, belonged to unions, which regulated retirement age. Any older person who was not entitled to a retirement pension received a family protection allowance. Allowances were paid not only to older persons, such as widows with dependent children, but also to under-age orphans with no one to care for them.

3. If it were not for the embargo, the Iraqi economy would be on a sound basis and Iraq would be a wealthy State. The Government employed a system of economic planning which, under normal circumstances, was able to cope with the problem of inflation. When circumstances returned to normal, Iraq should be able to take up its proper economic position within the world community. The matter of bankruptcy was covered by a number of social laws mentioned earlier. Under the food rationing programme, all Iraqi citizens were entitled to purchase food coupons at the price of 50 dinars, which had a free-market value of 2,000 dinars. The Government did indeed pay compensation to those who were victims of unfortunate circumstances. It had compensated all citizens who had lost their homes or were otherwise affected by the bombing in 1991.

4. The written replies (HR/CESCR/NONE/1997/3) to paragraphs 18 and 21 of the list of issues (E/C.12/Q/IRAQ.1) did in fact complement each other. The legislation cited in the reply to paragraph 21 guaranteed the rights of all persons, not only the handicapped.

5. Education had traditionally been compulsory at both the elementary and the secondary levels. Many families, however, were on the brink of starvation and children were leaving school and taking jobs to help out. It was a practice that was incompatible with the patterns of traditional Iraqi society. With every passing year, the effects of the embargo grew worse and a solution had to be found. Social allowances and retirement benefits were a heavy burden on the Government, which was suffering from a shortage of resources.

6. Ms. JIMENEZ BUTRAGUEÑO asked whether retirement was obligatory at a particular age and whether the age was the same for men and women.

7. Mr. KOUZNETSOV, noting that paragraph 65 of the third report (E/1994/104/Add.9) stated that workers enjoyed social security privileges if they were employed in the work projects covered by social security, wondered what work projects were not covered by social security, and whether the people involved went without social security benefits.

8. Mr. DHARY (Iraq) said that the retirement age was 63 to 65, depending on the occupation. In the public services, the age was set at 65; for more difficult or dangerous trades, it was 63. A retiree could return to work if he so wished and the relevant law was rarely invoked, especially in the case of skills in great demand. Efforts were, of course, made to enable young people to begin their working lives. Retirement age was the same for men and women and retirement and social security legislation covered all workers in Iraq, without exception and without distinction as between men and women.

9. Mr. SADI said that the Convention on the Rights of the Child abolished the distinction between legitimate and illegitimate children. For the purposes of inheritance, had Iraq done so?

10. Mr. GRISSA asked whether under normal circumstances foreign workers in Iraq benefited from the same rights as did Iraqi nationals and, in particular, whether they were entitled to social security allowances and could transfer those allowances to other countries.

11. Mr. DHARY (Iraq) said that his Government was a State party to the Convention on the Rights of the Child and had incorporated its provisions in domestic legislation. By law, all children born in Iraq of unknown parentage were granted Iraqi nationality and enjoyed all the relevant rights. The Ministry of Labour and Social Affairs administered nurseries and day-care centres for all children in need of care, for whatever reason, regardless of whether the parent was unknown, dead or otherwise unable to look after the child. The law made no reference to the concept of illegitimacy and no discrimination was practised on that basis. A child raised in an institution could expect later to live a normal life in society. Iraqi law was grounded in the norms and laws of the Shari'a and, although adoption as such was not permitted, under the tradition known as al'damm - which might in fact be superior to the practice of adoption - families took in abandoned children and treated them as their own, in both the social and legal sense.

12. Of the many hundreds of thousands of foreign nationals who had worked in Iraq, only a small number remained. Foreigners who acquired Iraqi nationality enjoyed the same pension and retirement rights as did other Iraqi citizens. If a retired foreign national chose to leave Iraq, he forfeited his pension and instead received a severance bonus. Although the Government had sometimes been late in paying compensation and allowances, it did ultimately pay them. No distinction was drawn between Iraqi nationals and foreign employees as to salaries, wages and other benefits. The terms of retirement and vacation leave were also similar. Some foreign workers received higher allowances on the basis of higher skills and qualifications.

13. All workers in Iraq received benefits under the Pension and Social Security Act, although the amount depended, of course, on the occupation. Those who practised occupations or professions that were dangerous or harmful

to health received higher wages and benefits. Those whose professions required special training qualifications also had higher wages.

14. Mr. ADEKUOYE asked, with reference to paragraph 67 of the third report, for detailed information on the source of the revenues used by the Department of Labour and Social Security to finance the cost of social security. Again, did small farmers and workers on collective farms receive social security benefits and how were their social security contributions made?

15. Mr. DHARY (Iraq) said that the pension fund for workers in the public sector was financed not only by contributions but also by profit-yielding assets, including property. Pension funds for workers in the private sector were raised through employee taxes and contributions from employers, who paid the far larger share. Furthermore, the State supported such funds out of its annual budget and ensured that the appropriate resources were paid into them.

16. Workers on State-run farms were considered agricultural public officials and enjoyed all the relevant rights of public office. Limits had nonetheless been set on the number of State-run farms, and, as far as he was aware, such farms in fact no longer existed. On the other hand, those who worked for farm owners or in private agro-businesses were considered agricultural workers and enjoyed all the rights of workers under the Pension and Social Security Act. Farmers who owned their land were not entitled to pensions. If, however, they reached retirement age and had no financial resources, they were entitled to social security benefits.

17. Mr. ADEKUOYE inquired about the nature of the social security contributions. What was the percentage of the employer's and the employee's contribution in the private sector? Did employees in the public sector also have to contribute?

18. Mr. DHARY (Iraq) said that he had no exact figures, but the larger part of the social security contributions in the private sector was borne by the State, followed by the employers, the employees having by far the smallest proportion to pay. In the public sector, no deductions were made from the salaries of civil servants to cover their retirement pension.

19. Ms. JIMENEZ BUTRAGUEÑO asked whether deductions were made in the case of self-employed farm workers. Was there a special system for self-employed workers in small private enterprises?

20. Mr. DHARY (Iraq) said that self-employed farm workers, i.e. peasants, had the same rights and obligations as all Iraqi citizens. No deductions were made from their agricultural income. They were not subject to any retirement regime. At retirement age, if they did not have any other capital, they were entitled to social welfare.

Article 10. Protection of the family, mothers and children

21. Mr. TEXIER said that, according to the replies of the Iraqi Government, child labour was on the rise because of the embargo. Nonetheless, a number of international conventions prohibited child labour. Were specific measures being taken to reduce as much as possible the number of children working?

22. As to divorce and its consequences for children, the replies also said that custody of young children was almost always given to the mother. Actually, the trend in a number of countries was to try to ensure that both parents remained involved in raising their children and whenever possible, the child was given the choice of which parent it wanted to live with. Was there a similar development in Iraq? With reference to a point already touched on by Mr. Sadi, was a distinction drawn between children born in and out of wedlock? Many countries were seeking to ensure that both categories of children were treated equally, notably in the matter of inheritance and civil status.

23. Lastly, on the subject of dealing with juvenile offenders was there a move in Iraq away from closed institutions, as was the case in a number of other countries?

24. Mr. ANTANOVICH, referring to paragraph 27 of the list of issues, asked whether information could be provided on the number of children who had dropped out of school and on how many of them were working. What was the Government doing to help children who had been traumatized during the long period of war, devastation and misfortune that Iraq had experienced? Did schools offer children job counselling?

25. Ms. JIMENEZ BUTRAGUEÑO, referring to paragraph 22 of the Iraqi replies, wanted to know whether violence against women in the family was widespread. Did offences under the Penal Code incur the same penalties for both spouses? For example, was the punishment for women who committed marital infidelity the same as for men? Again, did guardians always act in place of the parents, or were other persons involved when the parents could not assume their responsibilities? She found Mr. Texier's remarks most interesting, because it was usually the mother who had responsibility for bringing up the child. Did both Iraqi parents play a role in raising their children? Lastly, was there a high rate of divorce in Iraq?

26. Mr. GRISSA inquired what the educational situation was in the three northern regions of Iraq which were cut off administratively from the rest of the country. Who provided for children's schooling there?

27. Mr. WIMER asked what exactly the difference was between adoption and al-damm. Were both systems in force or was al-damm a substitute for adoption, and was it regulated under the civil law for family matters?

28. Mr. SADI asked whether children taken into a new family under the al-damm system were entitled to inherit on an equal footing with natural children.

29. Mr. DHARY (Iraq), replying first to questions asked by Mr. Texier, said that pursuant to Act No. 118/76, schooling was compulsory between the ages of six and 15 and any parent who prevented a child in that age group from attending school was liable to punishment. The growing problem of child labour should not be taken to suggest that there were large numbers of children employed in factories. On the other hand, some children worked at home or on the family farm. Factory owners who used child labour were liable to punishment by law. Unfortunately, with the ongoing embargo, the problem

was growing worse. If the sanctions continued, the phenomenon would certainly become more acute. Before the embargo, the problem had not existed.

30. Concerning the joint care of children, Iraq, which was still a developing society, had sought to strengthen the position of women. The relevant legislation, which emphasized psychological and health matters, was based on the assumption that a child was better looked after by its mother than by its father. It was a fact, at least in developing countries, that mothers were better at protecting children than their fathers were. Under Iraqi law, mothers had custody of their children up to the age of 10. Thereafter, custody fell to the father, unless the court ruled that the child should remain with the mother. If the mother wanted to retain custody, the court decided the dispute in the best interests of the child. With regard to involvement in bringing up the child, the fact that under Iraqi law the mother had custody did not mean the father was deprived from seeing the child. On the contrary, the child was allowed to spend several days or even months with the father, and where there was a conflict between the two parents, the family court ensured that the father could maintain contact with and be visited by his children. The goal was to see to it that the child was brought up by both parents.

31. As to legitimate and illegitimate children, no such distinction was made under Iraqi law. There was no discrimination against illegitimate children; indeed, no one was aware whether a child was illegitimate or not. When such children grew up, they had the same rights and obligations as all citizens.

32. As for juvenile delinquency, children under the age of 9 could not in any case be held criminally responsible for an act. From the age of 10 to 18, children who committed an offence came under the law on the protection of minors. Responsibility was mitigated and there were special court procedures for minors. Article 72 of the 1983 Protection of Minors Act provided that, if a minor had committed an offence, he received a warning and the parents were cautioned that they were responsible for the proper upbringing of their child. A minor who committed an offence which was punishable by five to six years' imprisonment in the case of an adult was sent home to his parents, or to one of them, to carry out the recommendations made in his regard to make sure of his upbringing. The minor would then be on probation. Minors who committed a serious offence, for example relating to the safety of society, were placed in special educational institutions, which, although they could not be likened to prisons, were not open schools.

33. On the question on child labour, he drew attention to the information in paragraphs 89 and 90 of the report, referring to Labour Act No. 71 of 1987, which permitted persons under the age of 15 to work only within the framework of the family. Employers who hired minors would be liable to criminal penalties. After the age of 15, young persons could enrol in vocational training courses often organized by the Ministry of Labour and Social Affairs or the Ministry of Education.

34. With reference to Ms. Jimenez Butragueño's question on domestic violence and punishment of offenders, he could not deny that such violence did exist, given the size of the population. However, Iraqi law punished all acts of violence, whether they occurred within or outside of the family. The family unit had traditionally been a solid institution. There were, of course, cases

in which women chose to endure physical violence for the sake of their children, but if a woman was physically assaulted by her husband she could lodge a complaint of violence against her person and thereby obtain a legal separation. Plainly, Iraqi society was governed by social rules and what domestic violence there was could not be described as widespread. It was a social tradition in Iraq for fathers to take on the upbringing of their sons, even up to the age of 30, but generally speaking both parents played a part in bringing up the children.

35. Adulterers were punishable under the Penal Code. However, a person could not be brought before the courts without the consent of his or her spouse. Trials involving adultery were rather rare, because such problems were usually resolved by social means. He did not have precise figures to respond to the query on the incidence of divorce, but would point out that divorce was not looked on favourably in Iraq.

36. Mr. Grissa had asked about schooling in the areas with strong Kurdish majorities. Unfortunately, there were conflicts and military operations in the zone in question. The provinces in the region had separated from the Iraqi Government unilaterally and through direct military occupation, not under a formal agreement. He had no statistics on the current standard of living and situation of children living in that region. The reports received were disturbing, and the Government of Iraq was seeking ways to provide a normal education system and certain privileges for those children. Textbooks and other school materials were being supplied despite the severe constraints on the resources available.

37. There was no adoption system, as known in other countries, in Iraq whose legal system fell under the Shari'a. The Personal Status Act and the Code for the Protection of Minors provided for "al-damm", which enabled persons to take in children who had no parents. Such children were assimilated into the family and enjoyed all rights and entitlements, including inheritance rights, on an equal footing with legitimate children. It was considered preferable for persons to belong to the same religious denomination as the child.

38. Mr. ADEKUOYE, referring to the question of physical abuse, said that he found it difficult to accept the positive picture drawn by the Iraqi delegation. He did not believe the General Federation of Iraqi Women would have taken up the cause against domestic violence if it did not have good reason to be concerned about the issue.

39. Mr. DHARY (Iraq) said he regretted that he did not have further proof or explanation of the extent of domestic violence. It would be best if Mr. Adekuoye himself could visit Iraq to observe the situation in situ. Regardless of how the situation might appear, domestic violence was neither a scourge on Iraqi society, nor was it prevalent.

Article 11. Right to an adequate standard of living

40. Mr. RIEDEL said squatting was a universal problem that affected both developed and developing countries alike. Under Revolution Command Council Decree No. 548 of 1979 plots of land could be sold to the needy, and the Government contended that the wording of the Decree guaranteed the right of citizens to choose a suitable place of residence. Actually, squatters were

usually extremely poor or even destitute and therefore unable to buy land, even at a reasonable price. What did the Government of Iraq plan to do with squatters, particularly when the municipal authorities had no means to provide alternative housing?

41. Mr. THAPALIA highlighted the situation in the southern and central areas, where there was little or no access to drinking water. One of the overall effects of the economic embargo on Iraq was the 50 per cent reduction in food consumption, which resulted in nutritional deficiencies among the population. There had been reports about the harsh lives Iraqis endured, and how the situation was further compounded by black marketeerings of United Nations food supplies and the hoarding of basic goods. What measures had the Government taken to combat the hardships and what success, if any, could it report in waging a campaign against black marketeers and hoarders.

42. Mr. DHARY (Iraq) said that squatting was a particularly serious issue for developing countries where massive movements of people to the urban areas caused a number of social and economic problems which, in Iraq, were being approached at the social, humanitarian and legal levels. The Government was endeavouring to treat squatters with understanding and to assist the communities involved. Obviously, squatters were at a disadvantage because they fell outside the State planning system and did not receive normal services.

43. However, since squatting had legal implications, the second approach was to enforce prohibitions on squatting where it could not be tolerated, in hazardous regions or at archaeological sites, for example. The Government was also interested in solving the problem, especially with respect to children and potential crime.

44. With reference to Mr. Thapalia's comments, Iraqi legislation severely punished persons who obtained money by unlawful means or to the detriment of the health of others. Fortunately, few cases had arisen and there was constant monitoring, including the system established under the Memorandum of Understanding with the United Nations.

Article 13. Right to education

45. Mr. THAPALIA said he would be interested to learn about the number of illiterates in rural and urban areas, especially among minority and indigenous groups, and to have further information on the academic freedom of ethnic minorities. A number of problems plagued the education system in Iraq, most notably the effects of wars and the current economic embargo. Nevertheless, he had received reports of preferential treatment being given to the children of senior party officials, while the rest of the population had to make do with inadequate facilities.

46. Mr. SADI asked whether there had been a rise in attendance in secondary or higher educational institutions, in view of the fact that job opportunities had greatly diminished. He would also like to know whether equality of education had been adversely affected by the sanctions, and how the sanctions had directly influenced the quality of education.

47. Mr. MARCHAN ROMERO recalled that the Committee had, in its concluding observations, asked Iraq to provide full information on measures taken to implement article 13, paragraph 1, of the Covenant regarding human rights education. Could the delegation indicate the types of measures the Government had been able to adopt and implement in that regard, especially in view of the recent history of war and the consequences of the economic embargo? What sort of human rights training did the military, the judiciary, the police and other members of the forces of law and order receive?

48. Paragraph 3 of the replies on the implementation of article 13 stated that a Great National Credo Campaign was being conducted to promote the values of justice, equality and frank expression of opinion. Had the campaign been launched in the form of a text, law or declaration, or was it related to human right policies, especially the economic, social and cultural rights of individuals?

49. Mr. CEAUSU, referring to the Committee's concluding observations on Iraq's second report (E/C.12/1994/6), said that a number of concerns had been expressed with regard to the application of article 13. One particular concern related to the need for equal access by women to education at all levels. Another was that persons belonging to various cultural groups should have access to education in their mother tongue. In general, the Committee had been disappointed by the unavailability of statistics on access to education by various sectors of the population. Did Iraq not have a national statistics service whose task was to gather data on all aspects of national life? For example, cases of certain diseases, such as AIDS, were presumably notified to the Ministry of Health by hospitals when diagnosed, thus enabling the Ministry to keep abreast of the country's health situation.

50. Since the third report had not indicated what action had been taken on the Committee's recommendations relating to education for women, education for religious and ethnic minorities and communities and the situation of the "Marsh Arabs" contained in paragraphs 17 to 19 of its concluding observations, he would welcome information on those points.

51. Mr. RIEDEL, referring to paragraph 16 of the written reply to paragraph 35 of the list of issues (E/C.12/Q/IRAQ.1), asked what methods were used to select teachers for the award of the title "exemplary teacher", in view of the benefits the title brought with it.

52. In the light of paragraph 2 of the written reply to paragraph 36 of the list of issues, he would like to know whether the ethnic communities referred to were generally being taught through their own language, whether only some classes were in the language in question and the rest in Arabic, or whether the language was merely being taught as a language subject.

53. Ms. JIMENEZ BUTRAGUEÑO, endorsing the comments made by other members and in particular Mr. Marchan Romero, asked whether the training in human rights issues given to members of the judiciary included the need to avoid discrimination on grounds of sex. Were the provisions of the plan of action adopted by the Fourth World Conference on Women (Beijing, 1995) reflected in such training? It was particularly important to address the question of

violence against women, which was a worldwide phenomenon. Similarly, were the questions of women's rights being addressed by the Great National Credo Campaign?

54. Mr. DHARY (Iraq) said that, as he had mentioned earlier and as had been indicated in the second report, following a national campaign in the latter half of the 1970s, illiteracy had been declared eradicated in Iraq, even among older persons. Since Iraqi families took great pride in having children at school, the level of literacy had remained high until the imposition of the embargo, which had had a harsh impact not only on the economy but on every aspect of life. The education sector had been particularly hard hit and teaching materials - even down to pencils - were in very short supply; all levels of education were affected, even primary schools and kindergartens. The situation was such that, if it persisted, the fear was that Iraq would lose much of the educational gains it had made.

55. Minority groups, as active participants in the nation, enjoyed the same rights to education as did the rest of the country. As a result, they also suffered from the educational setbacks resulting from the embargo, which had included adverse effects on science teaching from lack of school laboratories and had led to no heating in schools even in severe winter weather.

56. As to teaching in minority languages, the Kurdish minority, in the areas it occupied in the north of the country, had access to education in Kurdish from kindergarten up to and including university level. Kurdish, because it was spoken by a large majority group, was also taught as a language in the majority of schools in the country. Institutions existed in Iraq, and particularly in Baghdad, to support minority cultures. Minority languages television services on both ordinary and educational subjects were provided in areas where such languages were widely spoken. There were minority language publications - a Kurdish daily was published in Baghdad - but all periodical publications had suffered from the lack of paper and printing materials caused by the embargo and they appeared less frequently than formerly.

57. The closure of the Shia college of jurisprudence, mentioned in paragraph 19 of the Committee's concluding observations, had been due to its destruction during the war. However, the college had since been rebuilt and was now in operation again.

58. Comments had been made about schools reserved for the children of senior officials. In Iraq there were no private schools. All schools up to university level, where a few private universities existed, were run by the State. The children of people from all walks of life thus had equal access to primary and secondary schooling, the only criterion determining the particular school attended being the school's catchment area. Children were under no compulsion to engage in paid employment. However, in view of the cutbacks in social welfare, child labour was often forced on families living in poverty that had lost a breadwinner through illness or death. However, he would assure Mr. Sadi that, in the majority of cases, children continued to go to school: parents were prepared to make sacrifices in order to enable them to do so because respect for education was part of Iraqi culture. Nevertheless, the level of education reached was being eroded as a result of the material shortages forced on schools by the embargo. The ideological campaign,

referred to by Mr. Marchan Romero, was merely an extension of teaching in cultural matters and the sciences in that its aim was to instil in students sincerity, tolerance and respect for the rights of others.

59. To reply to Mr. Riedel's questions, the educational curriculum was the same for all schools throughout the country and was drawn up by the Ministry of Education and a high-level commission made up of experts from educational and other fields. Changes were made to the curriculum from time to time in order to bring courses up to date with the latest developments in the subjects concerned. In the case of large minority groups, such as the Kurds, education all the way up to university level, as well as the functioning of the civil administration and the courts, was in the language concerned. However, a Kurdish student, say, studying outside the Kurdish area, for example in Baghdad, would be expected to pursue his studies through Arabic. In the case of small minority groups, it was not useful, even in the view of those groups themselves, to receive education in subjects such as the sciences in their own language. However, care was taken to ensure that they were taught their own language. Such groups also had access to associations, clubs and publications promoting their languages. Although the basic language of education of the country was Arabic, English was also an important language of instruction particularly in the university science and medical faculties. English was thus taught in schools, as were other important foreign languages such as French and Spanish.

60. With regard to the question by Ms. Jimenez Butragueño on the training in human rights given to members of the judiciary, the university faculties of international law and of political science assigned a large part of the curriculum to the broad field of human rights and human rights instruments. An article on the subject in a publication by the Legal Institute, where judges and public procurators received their training, would be made available to the Committee.

61. With regard to the lack of statistics mentioned by Mr. Ceausu, data could be provided to the Committee on the situation in Iraq relating to a number of diseases - although not AIDS.

62. It should be recalled that the Marsh Arabs were in a frontier area and that many were under Iranian and not Iraqi sovereignty. In the case of the Marsh Arabs in the southern part of Iraq, it was not possible to provide schools as they inhabited floating reed dwellings scattered over extensive areas of water, lived off fishing and were largely cut off from the outside world. The Iraqi Government was trying to encourage them to live in more concentrated communities so that they could be provided with proper services - schools, dispensaries, electricity, safe drinking water and other necessities. However, there was no compulsion involved and the Marsh Arabs were free to continue their centuries-old traditional way of life if they wished.

63. The CHAIRPERSON said that the Committee had completed its consideration of the third periodic report of Iraq. He thanked the delegation of Iraq for its attendance at the session and for the manner in which it had presented its submissions, which would be given careful consideration by the Committee.

The meeting rose at 1.05 p.m.